

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**SB 1656 - HB 1996**

February 3, 2014

**SUMMARY OF BILL:** Increases from 15 years of age to 18 years of age the age of a minor against whom an offense of trafficking for a commercial sex act is a Class A felony.

Creates two new Class A felonies for trafficking for a commercial sex act when the person committing the offense either is in a criminal gang or commits a criminal gang offense.

Requires that all violations for trafficking for a commercial sex act be sentenced within Range II.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – \$89,100/Incarceration\***

Assumptions:

- The offense of trafficking for a commercial sex act was enacted in 2008. Since then, there have been five admissions, averaging one per year over the last five years.
- Trafficking for a commercial sex act is a Class B felony unless the victim is under the age of 15, in which case it is a Class A felony. The proposed legislation increases this to 18 years of age.
- It is assumed that increasing the minor age from 15 years of age to 18 years of age will result in one additional Class A felony admission every five years. The proposed legislation will not result in any additional Class A felony admissions for trafficking for a commercial sex act committed by a criminal gang member, because trafficking for a commercial sex act is a Class B felony. Any criminal gang member committing trafficking for a commercial sex act is already sentenced for the crime as a Class A felony because of the criminal gang enhancement.
- The bill also requires all violations, including future Class B felony admissions, be sentenced within Range II.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the fiscal impact of this legislation.
- A recidivism discount would normally apply because the proposed legislation is increasing the punishment for an existing offense. However, due to the low number of admissions added by this legislation, the recidivism discount does not impact the

incarceration cost for the proposed legislation.

- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2014 is \$66.29.
- The average time served for a Class B felony is 5.6 years. The average time served for a Class A felony is 15.09 years.
- It is assumed that the average time served for trafficking for a commercial sex act will be increased to 7 years for Class B felony violations and 17 years for Class A felony violations.
- The proposed legislation will result in each Class B felony offender serving an additional 1.4 years (7 years – 5.6 years).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one Class B felony offender every five years serving an additional 1.4 years (511.35 days) for an annualized total of \$6,779.48  $[(\$66.29 \times 511.35 \text{ days}) / 5]$ .
- The proposed legislation will result in one additional Class A felony admission every five years, serving an average of 17 years.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one Class A felony offender every five years serving 17 years (6,209.25 days) for an annualized total of \$82,322.24  $[(\$66.29 \times 6,209.25 \text{ days}) / 5]$ .
- The total increase in state expenditures is \$89,101.72  $(\$6,779.48 + \$82,322.24)$ .
- According to the Administrative Office of the Courts, the bill will not significantly impact the courts' caseloads.
- Considering the bill will only result in one new case every five years, it is assumed that the District Attorneys General Conference and the District Public Defenders Conference can accommodate any impact within existing resources.

*\*Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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